

**MONDAY, MARCH 8, 2004**

**SIXTY-EIGHTH LEGISLATIVE DAY**

**CALL TO ORDER**

The Senate met at 5:00 p.m., and was called to order by Mr. Speaker Wilder.

**PRAYER**

The proceedings were opened with prayer by Minister Clifton Fox of Etowah Church of Christ in Etowah, Tennessee, a guest of Senator Miller.

**PLEDGE OF ALLEGIANCE**

Senator Miller led the Senate in the Pledge of Allegiance to the Flag.

**ROLL CALL**

The roll call was taken with the following results:

Present . . . . . 33

Senators present were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

**INTRODUCTION OF BILLS**

The Speaker announced that the following bills were filed for introduction and passed first consideration:

**Senate Bill No. 3473** by Senator Southerland.

Cocke County -- Subject to local approval, repeals act that created office of county attorney.

**Senate Bill No. 3474** by Senator Southerland.

Greeneville -- Subject to local approval, modifies civil service system. Amends Chapter 179 of the Private Acts of 1953; as amended.

**Senate Bill No. 3475** by Senator McNally.

Monroe County -- Subject to local approval, removes administrative building permit requirements in Monroe County from the County Clerk and places the duty for completion of the building permit administrative requirements on the Monroe County Codes Enforcement Officer. Amends Chapter 82 of the Private Acts of 1965.

**Senate Bill No. 3476** by Senator McNally.

Monroe County -- Subject to local approval, places responsibility of issuing, administering and enforcing building permits with County Codes Enforcement Officer instead of County Clerk. Amends Chapter 82 of the Private Acts of 1965.

**HOUSE BILLS ON FIRST CONSIDERATION**

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

**House Bill No. 3558** -- Athens -- Subject to local approval, changes charter of City of Athens. Amends Chapter 455 of the Private Acts of 1953.

**House Bill No. 3560** -- Marshall County -- Subject to local approval, revises wheel tax. Amends Chapter 73 of the Private Acts of 1979.

**SENATE BILL ON SECOND CONSIDERATION**

The Speaker announced that the following bill passed second consideration and was referred to the appropriate committee:

**Senate Bill No. 3472** held on desk.

**INTRODUCTION OF RESOLUTIONS**

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

**Senate Joint Resolution No. 798** by Senator Cooper.  
Highway Signs -- Designates State Route 30 in Warren County the "Veterans Memorial Highway".

**Senate Joint Resolution No. 799** by Senator Cooper.  
Memorials, Academic Achievement -- Dustin Dowell, Co-Valedictorian, Warren County High School.

**Senate Joint Resolution No. 800** by Senator Haynes.  
Constitutional Amendments -- Proposes an amendment to Article VI, Section 14, of the Constitution of the State of Tennessee, to raise the amount of the maximum fine that may be assessed without a jury.

**Senate Joint Resolution No. 801** by Senator Norris.  
Memorials, Professional Achievement -- John and Dana Butler, 2004 National Young Farmers of the Year.

**Senate Joint Resolution No. 802** by Senator McNally.  
Highway Signs -- Names US 322 within Sweetwater city limits the "Billy R. Ridenour Highway".

**Senate Joint Resolution No. 803** by Senator Graves.  
Memorials, Academic Achievement -- Warren Hays Pate, Salutatorian, Gallatin High School.

**Senate Joint Resolution No. 804** by Senator Graves.  
Memorials, Academic Achievement -- Jonathan Lee Trevor, Salutatorian, Beech High School.

**Senate Joint Resolution No. 805** by Senator Graves.  
Memorials, Academic Achievement -- Matthew David Andrews, Valedictorian, Beech High School.

**RESOLUTIONS LYING OVER**

**House Joint Resolution No. 927** -- Memorials, Recognition -- Reverend Elizabeth Toles.

The Speaker announced that he had referred House Joint Resolution No. 927 to Committee on Calendar.

**House Joint Resolution No. 928** -- Memorials, Recognition -- The Hermitage, 200th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 928 to Committee on Calendar.

**House Joint Resolution No. 929** -- Memorials, Personal Occasion -- Mr. and Mrs. Michael A. Greene, wedding.

The Speaker announced that he had referred House Joint Resolution No. 929 to Committee on Calendar.

**House Joint Resolution No. 931** -- Memorials, Public Service -- Pleasant View Volunteer Fire Department.

The Speaker announced that he had referred House Joint Resolution No. 931 to Committee on Calendar.

**House Joint Resolution No. 932** -- Memorials, Public Service -- Ashland City Fire Department.

The Speaker announced that he had referred House Joint Resolution No. 932 to Committee on Calendar.

**House Joint Resolution No. 933** -- Memorials, Professional Achievement -- Stanley Dunbar, Executive Committee, National Food Processors Association.

The Speaker announced that he had referred House Joint Resolution No. 933 to Committee on Calendar.

**House Joint Resolution No. 934** -- Memorials, Professional Achievement -- Ruth Ellis, Johnson City/Jonesborough/Washington County Chamber of Commerce Hall of Fame.

The Speaker announced that he had referred House Joint Resolution No. 934 to Committee on Calendar.

**House Joint Resolution No. 935** -- Memorials, Public Service -- Alfred Wheelock.

The Speaker announced that he had referred House Joint Resolution No. 935 to Committee on Calendar.

**House Joint Resolution No. 936** -- Memorials, Sports -- Hendersonville High School Golden Girls, National Championship.

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The Speaker announced that he had referred House Joint Resolution No. 936 to Committee on Calendar.

**House Joint Resolution No. 937** -- Memorials, Congratulations -- Patricia Bolton.

The Speaker announced that he had referred House Joint Resolution No. 937 to Committee on Calendar.

**House Joint Resolution No. 938** -- Memorials, Death -- Vernon M. "Pete" Rader.

The Speaker announced that he had referred House Joint Resolution No. 938 to Committee on Calendar.

**House Joint Resolution No. 944** -- Naming and Designating -- April 2004, National Child Abuse Prevention Month.

The Speaker announced that he had referred House Joint Resolution No. 944 to Committee on State and Local Government.

**House Joint Resolution No. 947** -- Memorials, Public Service -- Jim Nichols.

The Speaker announced that he had referred House Joint Resolution No. 947 to Committee on Calendar.

**Senate Joint Resolution No. 783** -- Memorials, Academic Achievement -- Rebecca Leigh Newhouse, Salutatorian, Hendersonville High School.

The Speaker announced that he had referred Senate Joint Resolution No. 783 to Committee on Calendar.

**Senate Joint Resolution No. 784** -- Memorials, Academic Achievement -- Sarah Brandt, Valedictorian, Hendersonville High School.

The Speaker announced that he had referred Senate Joint Resolution No. 784 to Committee on Calendar.

**Senate Joint Resolution No. 785** -- Memorials, Academic Achievement -- Adam Porter, Valedictorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 785 to Committee on Calendar.

**Senate Joint Resolution No. 786** -- Memorials, Academic Achievement -- Hannah Caroline Smith, Valedictorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 786 to Committee on Calendar.

**Senate Joint Resolution No. 787** -- Memorials, Academic Achievement -- Sally Pirtle, Valedictorian, Portland High School.

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The Speaker announced that he had referred Senate Joint Resolution No. 787 to Committee on Calendar.

**Senate Joint Resolution No. 788** -- Memorials, Academic Achievement -- Gerri Elliott, Salutatorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 788 to Committee on Calendar.

**Senate Joint Resolution No. 789** -- Memorials, Academic Achievement -- Catie Stroud, Valedictorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 789 to Committee on Calendar.

**Senate Joint Resolution No. 790** -- Memorials, Academic Achievement -- Joshua Smart, Salutatorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 790 to Committee on Calendar.

**Senate Joint Resolution No. 791** -- Memorials, Academic Achievement -- Emily Skelly, Salutatorian, Portland High School.

The Speaker announced that he had referred Senate Joint Resolution No. 791 to Committee on Calendar.

**Senate Joint Resolution No. 792** -- Memorials, Congratulations -- Vanderbilt Children's Hospital.

The Speaker announced that he had referred Senate Joint Resolution No. 792 to Committee on Calendar.

**Senate Joint Resolution No. 794** -- Memorials, Sports -- Dan W. Crowe, TSSAA Hall of Fame.

The Speaker announced that he had referred Senate Joint Resolution No. 794 to Committee on Calendar.

**Senate Joint Resolution No. 795** -- Memorials, Recognition -- Brian E. Moody.

The Speaker announced that he had referred Senate Joint Resolution No. 795 to Committee on Calendar.

**Senate Joint Resolution No. 796** -- Memorials, Recognition -- Mountain States Health Alliance, Tennessee Center for Performance Excellence Quality Achievement Award.

The Speaker announced that he had referred Senate Joint Resolution No. 796 to Committee on Calendar.

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**Senate Joint Resolution No. 797** -- Memorials, Recognition -- Supports and encourages participation in Threshold: Sustaining a Land Called Tennessee conference at UT-Chattanooga.

The Speaker announced that he had referred Senate Joint Resolution No. 797 to Committee on Education.

**Senate Resolution No. 131** -- Memorials, Recognition -- Commends and supports 2004 Presidential election and full-fledged democracy in The Republic of China (Taiwan).

The Speaker announced that he had referred Senate Resolution No. 131 to Committee on Finance, Ways and Means.

**Senate Resolution No. 132** -- Memorials, Recognition -- Tennessee State Youth Conference.

The Speaker announced that he had referred Senate Resolution No. 132 to Committee on Calendar.

**CALENDAR**

Senator Kyle moved that **Senate Bill No. 3212** be placed on the calendar for Thursday, March 11, 2004, which motion prevailed.

**MOTION**

Senator Crutchfield moved that the rules be suspended for the immediate introduction and consideration of **Senate Resolution No. 134**, out of order, which motion prevailed.

**INTRODUCTION OF RESOLUTION**

**Senate Resolution No. 134** by Mr. Speaker Wilder.  
General Assembly, Confirmation of Appointment -- Judge Bob Moon, TBI nominating commission.

On motion of Senator Crutchfield, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 134** was adopted by the following vote:

Ayes . . . . .	30
Noes . . . . .	0
Present, not voting . . .	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--30.

Senator present and not voting was: Ketron--1.

A motion to reconsider was tabled.

**MOTION**

Senator Atchley moved that the rules be suspended for the immediate introduction and consideration of **Senate Resolution No. 133**, out of order, which motion prevailed.

**INTRODUCTION OF RESOLUTION**

**Senate Resolution No. 133** by Mr. Speaker Wilder.

General Assembly, Confirmation of Appointment -- Judge William C. Koch, TBI nominating commission.

On motion of Senator Atchley, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 133** was adopted by the following vote:

Ayes .....	32
Noes .....	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

**CALENDAR**

**Senate Joint Resolution No. 127** -- Constitutional Amendments -- Adds new provision to Article I to provide that nothing in Constitution of Tennessee secures or protects right to abortion or funding thereof.

Senator Fowler moved that the Clerk read the resolution, which motion prevailed.

The Clerk read the resolution.

Senator Henry moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by adding the following resolving clause immediately preceding the final resolving clause:

BE IT FURTHER RESOLVED, that the provisions of this resolution shall have no effect unless funds are appropriated to fund the cost of printing the notices of the proposed amendment as required by this resolution.

On motion, Amendment No. 1 was adopted by the following vote:

Ayes .....	31
Noes .....	0
Present, not voting . . .	1

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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--31.

Senator present and not voting was: Cohen--1.

Senator Herron moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting the period "." at the end of the amendatory language of the first resolving clause and substituting instead the following:

except that government shall not interfere with or prevent a woman from obtaining a medical procedure, including abortion, to protect her life or when she is the victim of incest or rape.

Senator Norris moved to amend as follows:

**AMENDMENT NO. 1 TO AMENDMENT NO. 2**

AMEND by deleting the amendatory language added by Senate Amendment No. 2, and by substituting instead the following language:

; except the legislature shall have the authority to make such exceptions as the legislature deems reasonably necessary, including the authority to make exceptions in the case of rape or incest and to save the life of the mother.

Senator Herron moved that Amendment No. 1 to Amendment No. 2 go to the table, which motion failed by the following vote:

Ayes . . . . .	15
Noes . . . . .	16
Present, not voting . . .	1

Senators voting aye were: Clabough, Cooper, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Herron, Jackson, Kurita, Kyle, McLeary, Trail and Mr. Speaker Wilder--15.

Senators voting no were: Atchley, Beavers, Bryson, Burchett, Burks, Crowe, Fowler, Henry, Ketron, Kilby, McNally, Miller, Norris, Person, Ramsey and Southerland--16.

Senator present and not voting was: Cohen--1.

Senator Miller moved for the previous question on Amendment No. 1 to Amendment No. 2, which motion prevailed by the following vote:

Ayes . . . . .	26
Noes . . . . .	4
Present, not voting . . .	3



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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Harper, Haynes, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--26.

Senators voting no were: Crutchfield, Herron, Jackson and McNally--4.

Senators present and not voting were: Cohen, Henry and Mr. Speaker Wilder--3.

On motion, Amendment No. 1 to Amendment No. 2 was adopted by the following vote:

Ayes ..... 17  
Noes ..... 15

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Crowe, Fowler, Henry, Ketron, Kilby, McNally, Miller, Norris, Person, Ramsey, Southerland and Williams--17.

Senators voting no were: Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Herron, Jackson, Kurita, Kyle, McLeary and Trail--15.

On motion of Senator Bryson, Amendment No. 2 to Amendment No. 2 was withdrawn.

Senator Henry moved that Amendment No. 2, as amended, be adopted.

Senator Cohen moved that **Senate Joint Resolution No. 127**, as amended, be rereferred to the Committee on Finance, Ways and Means.

Senator Fowler moved that the motion that **Senate Joint Resolution No. 127**, as amended, be rereferred to the Committee on Finance, Ways and Means go to the table, which motion prevailed by the following vote:

Ayes ..... 17  
Noes ..... 14  
Present, not voting . . . 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Clabough, Cooper, Crowe, Fowler, Ketron, Kilby, McNally, Miller, Norris, Person, Ramsey, Southerland and Williams--17.

Senators voting no were: Burks, Cohen, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Herron, Jackson, Kurita, Kyle, McLeary and Trail--14.

Senator present and not voting was: Henry--1.

On motion, Amendment No. 2, as amended, was adopted by the following vote:

Ayes ..... 20  
Noes ..... 12

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Fowler, Henry, Ketron, Kilby, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--20.

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Senators voting no were: Cohen, Crutchfield, Dixon, Graves, Harper, Haynes, Herron, Jackson, Kurita, Kyle, McLeary and Trail--12.

On motion of Senator Norris, Amendment No. 3 was withdrawn.

On motion of Senator Norris, Amendment No. 4 was withdrawn.

Senator Kyle moved that **Senate Joint Resolution No. 127**, as amended, be placed on the calendar for Thursday, March 11, 2004, which motion prevailed by the following vote:

Ayes ..... 30  
Noes ..... 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

Senator Fowler moved that the Clerk read the resolution, as amended, which motion prevailed.

The Clerk read the resolution, as amended.

Thereupon, Mr. Speaker Wilder declared pursuant to Article XI, Section 3 **Senate Joint Resolution No. 127**, as amended, had been read.

**MOTION**

Senator Kyle moved that Rule 83 be suspended for the purpose of allowing the Committee on Rules to meet on Wednesday, March 10, 2004, which motion prevailed.

**CALENDAR**

**Senate Bill No. 2252** -- Salaries and Benefits -- Prohibits air fare reimbursement in excess of standard coach fare for any official, officer, or employee of the State of Tennessee, or the state board of regents, the UT board of trustees, or their institutions. Amends TCA Title 8, Chapter 26 and Title 49, Chapter 7.

**Senate Bill No. 2252** passed its third and final consideration by the following vote:

Ayes ..... 31  
Noes ..... 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

Senator voting no was: Harper--1.

A motion to reconsider was tabled.

**RECALL OF BILL**

On motion of Senator Herron, **Senate Bill No. 3262** was recalled from the Committee on Environment, Conservation and Tourism.

**WITHDRAWAL OF BILL**

On motion of Senator Herron, Senate Bill No. 3262 was withdrawn from the Senate.

**CALENDAR**

**Senate Bill No. 2314** -- Landlord and Tenant -- Changes time period in which landlord must inspect rented premises and compile listing of damages to unit that will be basis for charges against security deposit and estimated costs of repairing such damages from within three business days to within 10 business days of tenant's termination of occupancy. Amends TCA Title 66, Chapter 28.

Senator Cooper moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting the language "ten (10) business days" from the amendatory language of Section 1 and by substituting instead the language "five (5) business days".

On motion, Amendment No. 1 was adopted.

Senators Burchett, Dixon, Haynes, Herron, Miller, Trail and Mr. Speaker Wilder declared Rule 13 on **Senate Bill No. 2314**.

Thereupon, **Senate Bill No. 2314**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 32  
Noes . . . . . 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

**Senate Bill No. 2316** -- Children -- Adds grounds for hearing petition for grandparent visitation. Amends TCA Section 36-6-306.

Senator Person moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-6-306(a), is amended by deleting the word "or" at the end of subdivision (4); by deleting the period "." at the end of subdivision (5) and by substituting instead the punctuation and word "; or"; and by adding the following language as a new appropriately designated section:

(6) The child and the grandparent maintained a significant existing relationship for a period of twelve (12) months or more immediately preceding severance of the relationship, this relationship was severed by the parent or parents for reasons other than abuse or presence of a danger of substantial harm to the child, and severance of this relationship is likely to occasion severe emotional harm to the child

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Person moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting from the amendatory language of Section 1 the words "likely to occasion severe emotional harm to the child" and by substituting instead the following:

likely to occasion substantial emotional harm to the child

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 2316**, as amended, passed its third and final consideration by the following vote:

Ayes .....	32
Noes .....	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

**Senate Bill No. 2683** -- Criminal Offenses -- Creates Class A misdemeanor offense of using an audiovisual recording device to record, without the consent of the owner, the exhibition of a motion picture and gives owner same power to detain person as retail merchants have to detain shoplifter. Amends TCA Title 39, Chapter 14, Part 1.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding the following as a new section:

Section 39-14-153. (a) It is an offense for a person to knowingly operate an audiovisual recording function of a device in a facility where a motion picture is being exhibited for the purpose of recording a theatrical motion picture and without the consent of the owner or lessee of such facility and of the licensor of the motion picture being exhibited.

(b) The term "audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

(c) An owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or his agent or employee or a law enforcement officer who has probable cause to believe that a person has violated this section, may detain such person on or off the premises of the motion picture establishment if such detention is done for any or all of the following purposes:

(1) To question the person, investigate the surrounding circumstances, obtain a statement, or any combination thereof;

(2) To request or verify identification, or both;

(3) To inform a law enforcement officer of the detention of such person, or surrender that person to the custody of a law enforcement officer, or both;

(4) To inform a law enforcement officer, the parent or parents, guardian or other private person charged with the welfare of a minor of the detention and to surrender the minor to the custody of such person; or

(5) To institute criminal proceedings against the person.

(d) Probable cause to suspect that a person has committed or is attempting to commit a violation of this section may be based on, but not limited to:

(1) Personal observation, including observation via closed circuit television or other visual device; or

(2) Report of such personal observation from another patron or employee;

(e) An owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or his agent or employee or a law enforcement officer

who detains, questions, or causes the arrest of any person suspected of a violation of this section shall not be criminally or civilly liable for any legal action relating to such detention, questioning, or arrest if the owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or his agent or employee, merchant or merchant's employee or agent or law enforcement officer:

(1) Has probable cause to suspect that the person has committed or is attempting to commit a violation of this section;

(2) Acts in a reasonable manner under the circumstances; and

(3) Detains the suspected person for a reasonable period of time.

(f) The owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or his agent or employee, may use a reasonable amount of force necessary to protect such owner, agent, employee or licensor, to prevent escape of the person detained, or to prevent the loss or destruction of property.

(g) A reasonable period of time, for the purposes of this section, is a period of time long enough to accomplish the purpose set forth in this section, and shall include any time spent awaiting the arrival of a law enforcement officer or the parents or guardian of a juvenile suspect, if the owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or his agent or employee has summoned such law enforcement officer, parents, or guardian.

(h) This section does not prevent any lawfully authorized investigative, law enforcement protection, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of a lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

(i) The provisions of this section shall not apply to a person who operates the audiovisual recording function of a device in a retail establishment for the sole purpose of demonstrating the use and operation of the device for a prospective customer.

(j) For purposes of this section, "facility" shall not be construed to include a personal residence.

(k)(1) A violation of this section is a Class A misdemeanor.

(2) Nothing in this section shall be construed as prohibiting prosecution under any other applicable provision of law.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

On motion of Senator Haynes, Amendment No. 2 was withdrawn.

Senator Haynes moved to amend as follows:

**AMENDMENT NO. 3**

AMEND by deleting subsection (a) of Section 39-14-153 of the amendatory language of Section 1 and substituting instead the following:

(a) It is an offense for a person to knowingly operate an audiovisual recording function of a device in a facility where a motion picture is being exhibited for the purpose of recording a theatrical motion picture and without the consent of the owner or lessee of such facility.

AND FURTHER AMEND by deleting Section 2 in its entirety and substituting instead the following:

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

Thereupon, **Senate Bill No. 2683**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 32  
Noes . . . . . 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

**Senate Bill No. 3452** -- Labor -- Exempts from public records names and titles of witnesses to OSHA investigations, increases time for state and local agencies to respond to allegations by Commissioner of Labor and Workforce Development that conditions or practices are endangering employees' health. Amends TCA Title 50, Chapter 3.

Senator Cooper moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by adding the following new section immediately following Section 2 and by renumbering subsequent sections accordingly:

SECTION \_\_. Tennessee Code Annotated, Section 50-3-910, is amended by deleting subsection (b) in its entirety and substituting instead the following:

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(b) On or before July 1, 2006 (or in the case of local governments created after July 1, 2004, within two (2) years following the creation of such government) each local government shall elect whether to:

- (1) Be treated as a private employer; or
- (2) Develop its own program of compliance.

Senator Cooper moved to amend as follows:

**AMENDMENT NO. 1 TO AMENDMENT NO. 1**

AMEND by adding the following language after the new section added by Senate Commerce, Labor and Agriculture Committee Amendment No. 1:

AND FURTHER AMEND by deleting the language "thirty (30) days" where such language appears in subsections (b) and (c) of the amendatory language of Section 2 and by substituting instead the language "twenty (20) days".

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

On motion, Amendment No. 1, as amended, was adopted.

Thereupon, **Senate Bill No. 3452**, as amended, passed its third and final consideration by the following vote:

Ayes ..... 30  
Noes ..... 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

**SENATE MESSAGE CALENDAR**

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 216** -- Traffic Safety -- Enacts "Peter and Eugenia Campochiaro Highway Safety Act". Amends TCA Title 55, Chapter 8, Part 1.

**HOUSE AMENDMENT NO. 1**

AMEND by deleting all the language after the enacting clause and substituting instead the following language:

SECTION 1. This act shall be known and may be cited as the "Peter and Eugenia Campochiaro Highway Safety Act of 2004".



SECTION 2. Tennessee Code Annotated, Section 55-8-110, is amended by adding the following language as a new, appropriately designated subsection:

(c) The driver of any vehicle approaching an intersection which is controlled by a traffic-control signal that is inoperative shall come to a full and complete stop at the intersection, and may proceed with due caution when it is safe to do so; provided, that if two (2) or more vehicles enter such an intersection from different directions at approximately the same time, after having come to full and complete stops, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

SECTION 3. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator Person moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 216**, which motion prevailed by the following vote:

Ayes . . . . . 32  
Noes . . . . . 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder—32.

A motion to reconsider was tabled.

#### HOUSE AMENDMENT NO. 2

AMEND by deleting the language of amendatory Section 2 as amended by House Transportation Committee Amendment No. 1 in its entirety and substituting instead the following language:

SECTION 2. Tennessee Code Annotated, Section 55-8-110, is amended by adding the following language as a new, appropriately designated subsection:

(c) The driver of any vehicle approaching an intersection which is controlled by a traffic-control signal that is inoperative because of mechanical failure or accident shall come to a full and complete stop at the intersection, and may proceed with due caution when it is safe to do so; provided, that if two (2) or more vehicles enter such an intersection from different directions at approximately the same time, after having come to full and complete stops, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

Senator Person moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 216**, which motion prevailed by the following vote:

Ayes . . . . . 32  
Noes . . . . . 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder—32.

A motion to reconsider was tabled.

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 1905** -- Workers' Compensation -- Requires officers serving process in workers' compensation cases to be paid same as sheriffs and constables; requires bonuses routinely given to employees be considered in determining average weekly wages. Amends TCA Title 50, Chapter 6.

**HOUSE AMENDMENT NO. 2**

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-207, is amended by deleting in the first sentence of subdivision (2) the language "between the wage" and by substituting instead the language "between the average weekly wage".

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator Miller moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1905**, which motion prevailed by the following vote:

Ayes . . . . . 32  
Noes . . . . . 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 2322** -- Housing -- Allows persons who are local government, public housing authority, or non-profit corporation employees who do not have a financial interest in a housing development to serve on THDA board. Amends TCA Section 13-23-128.

**HOUSE AMENDMENT NO. 1**

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 13-23-128(b), is amended by deleting the language "described in subsection (a)" wherever it appears and by substituting instead the language "prohibited in subsection (a)".

Senator McLeary moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2322**, which motion prevailed by the following vote:

**MONDAY, MARCH 8, 2004 -- 68TH LEGISLATIVE DAY**

Ayes ..... 31  
Noes ..... 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

**MOTION**

Senator Haynes moved to amend the schedule for the purpose of allowing the Committee on Transportation to meet from 11:30 a.m. to 12:30 p.m. on Wednesday, March 10, 2004 and the Committee on Government Operations to meet from 1:50 p.m. to 2:50 p.m. on Wednesday, March 10, 2004, which motion prevailed.

**MOTION**

Senator Williams moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 3403 and 3398** on the calendar for the Committee on Transportation for Wednesday, March 10, 2004, which motion prevailed.

**MOTION**

Senator Norris moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 801**, out of order, which motion prevailed.

**RESOLUTION LYING OVER**

**Senate Joint Resolution No. 801** -- Memorials, Professional Achievement -- John and Dana Butler, 2004 National Young Farmers of the Year.

On motion of Senator Norris, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 801** was adopted.

A motion to reconsider was tabled.

**NOTICE**

Pursuant to Rule 44, notice was given that the following bill was returned from the House of Representatives amended. Under the rule, the bill lies over.

**MESSAGE FROM THE HOUSE**  
March 8, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2730, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,  
Chief Clerk.

**MOTION**

On motion of Senator Fowler, his name was added as prime sponsor of **Senate Bills Nos. 432 and 1002**.

On motion of Senator Haynes, his name was removed as sponsor of **Senate Bill No. 432**.

On motion of Senators Ketron and Miller, their names were added as sponsors of **Senate Bills Nos. 502 and 2771**.

On motion of Senators Williams and Kilby, their names were added as sponsors of **Senate Bill No. 502**.

On motion of Senators Kilby, McNally and Herron, their names were added as sponsors of **Senate Bill No. 2376**.

On motion of Senator Cooper, his name was added as sponsor of **Senate Bills Nos. 3380 and 3422**.

On motion of Senator Person, his name was added as sponsor of **Senate Bill No. 3387 and Senate Resolution No. 133**.

On motion of Senator McNally, his name was added as sponsor of **Senate Bill No. 2828 and Senate Resolution No. 133**.

On motion, all Senators' names were added as sponsors of **Senate Joint Resolution No. 801**.

On motion of Senator Kilby, his name was added as sponsor of **Senate Bill No. 2632**.

**ENGROSSED BILLS**

March 8, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 2252, 2314, 2316, 2683 and 3452; and Senate Joint Resolution No. 801; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,  
Chief Engrossing Clerk.

**MESSAGE FROM THE HOUSE**

March 8, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2159, 2161, 2162, 2256, 2275, 2417, 2451, 2475, 2720, 2846, 2900, 2906, 2999, 3130 and 3562; passed by the House.

BURNEY T. DURHAM,  
Chief Clerk.

**MONDAY, MARCH 8, 2004 -- 68TH LEGISLATIVE DAY**

**MESSAGE FROM THE HOUSE**

March 8, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 871, 872, 906, 948, 949, 950, 951, 952, 959 and 960; adopted, for the Senate's action.

BURNEY T. DURHAM,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

March 8, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2475, 2481, 2563, 2792 and 2852; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,  
Chief Clerk.

**ENROLLED BILLS**

March 9, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 216, 1905, 2322, 2475, 2481, 2563, 2792 and 2852; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

March 9, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 133 and 134, and find same correctly enrolled and ready for the signature of the Speaker.

PATRICK W. MERKEL,  
Chief Engrossing Clerk.

**SIGNED**

March 8, 2004

The Speaker announced that he had signed the following: House Bills Nos. 2198, 2490 and 2491.

**SIGNED**

March 9, 2004

The Speaker announced that he had signed the following: Senate Bills Nos. 216, 1905, 2322, 2475, 2481, 2563, 2792 and 2852.

**SIGNED**  
March 9, 2004

The Speaker announced that he had signed the following: Senate Resolutions Nos. 133 and 134.

**REPORT OF COMMITTEE ON CALENDAR  
CONSENT CALENDAR #1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, March 11, 2004: House Joint Resolutions Nos. 906, 924, 925, 927, 928, 929, 931, 932, 933, 934, 935, 936, 937, 938, 942, 943, 945, 946, 947, 948, 949, 950, 951, 952, 959 and 960; and Senate Joint Resolutions Nos. 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 794, 795, 796, 799, 803, 804 and 805.

This the 9th day of March, 2004.  
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR  
CONSENT CALENDAR #2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, March 11, 2004: Senate Bills Nos. 2469, 2550, 2845, 2986, 3152, 3185, 3378 and 3389.

This the 9th day of March, 2004.  
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR  
LOCAL BILL  
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Thursday, March 11, 2004: Senate Bills Nos. 2881, 3463, 3464, 3467 and 3469.

**REPORT OF COMMITTEE ON CALENDAR**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, March 11, 2004: Senate Joint Resolution No. 127; and Senate Bills Nos. 3212, 127, 2559, 3173, 3273, 3401, 2682 and 1539.

This the 9th day of March, 2004.  
CROWE, Chairperson.

**SENATE  
MESSAGE CALENDAR**

Pursuant to Rule 44, notice has been given on the following bill and it has been set on the Message Calendar for Thursday, March 11, 2004: Senate Bill No. 2730.

**ADJOURNMENT**

Senator Crutchfield moved the Senate adjourn until 9:00 a.m., Thursday, March 11, 2004, which motion prevailed.